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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Deployment of Wireline Services Offering) CC Docket No. 98-147
Advanced Telecommunications Capability)
)

**MOTION FOR LEAVE TO ACCEPT
LATE FILED COMMENTS**

America Online, Inc., ("AOL"), pursuant to Section 1.41 of the Commission's Rules,^{1/} hereby respectfully moves the Commission for leave to accept the attached Comments of America Online, Inc. in the above-referenced proceeding one business day out of time. The grounds for this motion are as follows:

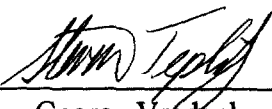
In preparing its Comments for filing, AOL experienced unforeseen production difficulties that rendered it impossible to file and serve a full and complete copy of the Comments in accordance with the September 25, 1998 filing date. As a result of these unforeseen difficulties, the attached Comments of America Online, Inc. are filed one day late. Because the complete set of Comments will be filed with the FCC's Office of the Secretary and the Commission's copy contractor, International Transcription Services, and duly served as required, less than one business day after the date upon which the pleadings were due, AOL submits that no interested party will be prejudiced in any way by the grant of this motion.

^{1/} 47 C.F.R. § 1.41 (1997).

025

For the foregoing reasons, America Online, Inc. respectfully requests that this Motion for Leave to Accept Comments Out of Time be granted.

Respectfully submitted,



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Dated: September 28, 1998

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FEDERAL COMMUNICATIONS COMMISSION
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COMMENTS OF AMERICA ONLINE, INC.

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COMMENTS OF AMERICA ONLINE, INC.

I. INTRODUCTION AND SUMMARY

America Online, Inc. ("AOL") hereby submits these comments in response to the Notice of Proposed Rulemaking ("NPRM") released by the Federal Communications Commission ("Commission" or "FCC") in the above-captioned docket.¹ In our comments in the related Notice of Inquiry pursuant to Section 706 of the Telecommunications Act of 1996 ("1996 Act"), we addressed the benefits of and need for competition and choice in both the cable and telephony infrastructures.² There and here, we encourage the Commission to facilitate full and effective facilities-based, loop-to-loop competition between cable operators and incumbent local exchange carriers ("LECs") as a mechanism to move toward a more market driven, and less regulatory, environment. Our comments in this proceeding build on these themes in the context of the deployment by LECs of advanced service capabilities.

¹ Memorandum Opinion and Order and Notice of Proposed Rulemaking, CC Docket No. 98-147, FCC No. 98-188 (rel. Aug. 7, 1998) ("NPRM").

² Specifically, AOL urged the Commission to require cable operators providing broadband access to an owned or affiliated ISP to make such access available to unaffiliated ISPs on a fair and non-discriminatory basis. See Comments of AOL (filed Sept. 14, 1998), CC Docket 98-146, FCC 98-187, Inquiry Concerning the Deployment of Advanced Telecommunications Capabilities to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, Notice of Inquiry ("Notice of Inquiry" or "NOI").

II. THE FCC SHOULD FOSTER THE DEPLOYMENT OF ADVANCED SERVICES IN A MANNER THAT PROMOTES CONSUMER CHOICE AND COMPETITION IN THE PROVISION OF INTERNET SERVICES

Since its founding in 1985, AOL has helped to create a vibrant Internet online service medium capable of delivering information, entertainment and interactive services to consumers around the globe.³ Today, the Internet Service Provider ("ISP") industry in which AOL operates is robustly competitive, with thousands of providers, including independent as well as LEC-affiliated ISPs, all offering consumers diversity and choice in their Internet services.⁴ In significant part, this competition and diversity has been created by the openness and accessibility of today's narrowband telephone infrastructure on which the Internet service business relies.⁵ Under this model of nondiscriminatory access, consumer choice has flourished, demand for information services has grown steadily, and the public interest benefits of such services have been broadly realized for consumers and businesses alike.

The deployment of broadband wireline infrastructures, with their faster transmission speeds and "always-on" network connections, presents a much anticipated opportunity to expand and enhance the profound public interest benefits associated with the development of the Internet. The public interest will be best served, therefore, by a general policy of open and nondiscriminatory access to "last mile" broadband infrastructures deployed by both incumbent LECs and cable operators. Such an approach with respect to the provision of broadband services

³ Headquartered in Dulles, Virginia, AOL is currently the leading Internet online company, with operations in the United States, Canada, the United Kingdom, France, Germany, Sweden, Switzerland, Austria, Australia and Japan. Today, AOL operates two worldwide Internet online services: America Online, with more than 13 million members, and CompuServe, with approximately 2 million members. AOL's members receive the benefits of original programming and informational content, e-mail capabilities, access to the World Wide Web and information databases, access to online "chat" conferences, and opportunities to engage in electronic commerce. The vast majority of AOL's members are residential consumers with dial-up connections, using the service for personal education, information, recreation and entertainment.

⁴ The ISP market includes a diverse range of entities, with services ranging from "no-frills" pure access to full service offerings. Recent estimates indicate that there are nearly 5,000 ISPs operating in North America. See Barbara Esbin, Internet Over Cable: Defining the Future In Terms of the Past, OPP Working Paper Series No. 30, Federal Communications Commission, Office of Plans and Policy, August 1998 ("Internet Over Cable") at 18.

⁵ In today's narrowband marketplace, ISPs, who are distinct from telecommunications service providers in form and function, acquire business telephone lines offered to all by incumbent or competitive LECs. ISPs then utilize this capability to provide Internet access to residential customers.

will enable Internet and other service providers to create, and consumers to benefit from full and effective loop-to-loop competition in the provision of broadband services. In our view, in such a competitive environment, the detailed regulatory scheme that has been imposed upon the former monopoly-based telecommunications carriers could be reduced and ultimately phased-out. This pro-competitive, deregulatory framework will bring consumers the benefits of lower prices, innovation, diversity and improved quality services.

By recognizing the fundamental need to ensure that all advanced broadband infrastructures are competitive and open, including the local cable loop, the Commission can finally bring to the public genuine “last mile” competition for all wireline services, not only voice services. Such loop-to-loop competition is at the core of the 1996 Act and is designed to spur technological innovation and investment, as well as broad economic, social and educational benefits for the public. For example, full and effective loop-to-loop competition would create an environment where Internet and other services delivering IP telephony and multimedia applications could flourish, further reducing the need for government regulation. While some limited competition is emerging as a result of the 1996 Act, full and effective facilities-based loop-to-loop competition does not exist. Accordingly, the FCC should use this proceeding to affirm its commitment to promoting full and effective loop competition in the broadband environment, not just between incumbent and competitive LECs, but between telephone and cable companies as well. It is especially crucial that the FCC act during this early stage of the emergence of broadband capabilities in order to send the proper marketplace signals regarding the deployment of advanced capabilities and services.

However, in the absence of full and effective facilities-based loop-to-loop competition, where both loops are open and accessible to all, there remains a need for continued assurance that the only marketplace provider of “last mile” transport capability not discriminate in favor of its affiliated Internet service provider. Accordingly, if the FCC adopts the proposal detailed in the NPRM permitting incumbent LECs to establish a “truly separate” data affiliate or to provide advanced services on an integrated basis, the Commission should adopt safeguards to ensure that

the deployment of advanced services continues to be on a reasonable and non-discriminatory basis for independent ISPs so as to foster competition, diversity and consumer choice. Indeed, irrespective of the regulatory pathway selected by the incumbent LEC for the provision of advanced services, fundamental principles of fair competition must continue to govern.

Specifically, the FCC should clarify that it will require fair and open treatment of all ISPs, whether independent or affiliated with the incumbent LECs, regardless of its conclusion that the separate data services affiliate of an incumbent LEC would not be deemed either a Bell Operating Company (“BOC”) or a “successor or assign” of a BOC as defined by the 1996 Act.⁶ Every BOC and large incumbent LEC is today participating in or entering the Internet services market. Because consumers of cable broadband service do not have the ability to select the Internet service provider of their choice, it is critical to ensure that consumers of incumbent LEC broadband service do have such a choice. Once cable operators provide open and nondiscriminatory access to their loops and facilities-based loop-to-loop competition becomes a reality, the FCC can harmonize its treatment of cable operators and incumbent LECs by eliminating the detailed requirements applicable to incumbent LECs, respecting the distinct geneology of their respective regulatory regimes, keeping in place only an overarching policy of openness and nondiscrimination.

Finally, in developing its broadband policies, the FCC should expressly acknowledge the fundamental distinction between (1) its obligation to regulate underlying transport infrastructures where necessary to eliminate monopoly “bottlenecks” inconsistent with competition and consumer choice and (2) the Congressional mandate to preserve, “unfettered by Federal or State regulation,” the “vibrant and competitive free market that presently exists for the Internet” which uses those transport infrastructures.⁷ Thus, while the Commission should ensure openness in the infrastructures underlying the Internet and on which the Internet rests,⁸ it does not have the

⁶ 47 U.S.C. § 153(4); NPRM at ¶¶ 89-92.

⁷ 47 U.S.C. § 230(b).

⁸ See Reply Comments of AOL in Federal-State Joint Board on Universal Service, Report to Congress, CC Docket 96-45 (February 6, 1998) at Attachment A, study by Professor Jeffrey MacKie-Mason, University of

authority to regulate the Internet itself. Rather, the Commission should respect the directives of the 1996 Act to rely on market forces to facilitate the competition and innovation that have been the hallmark of the Internet.

III. THE FCC SHOULD ENSURE THAT THE PROPOSED SEPARATE AFFILIATE STRUCTURE FOR THE PROVISION OF ADVANCED TELECOMMUNICATIONS CAPABILITIES WILL NOT BE USED TO AVOID FAIR, OPEN AND NON-DISCRIMINATORY TREATMENT OF INDEPENDENT ISPs

In the NPRM, the Commission tentatively concludes that an incumbent LEC may provide advanced services through a separate “advanced services data affiliate” that would not be subject to incumbent LEC regulation, and seeks comment on whether such advanced data services affiliates would be likely to favor the incumbent LEC-affiliated ISPs.⁹ Specifically, the FCC seeks comment on the safeguards it should adopt if a BOC affiliate offers advanced services in conjunction with a BOC information service, the ways in which advanced services affiliates could favor affiliated information service providers, and the means by which the Commission could address these concerns.¹⁰

In answering these questions, the FCC should acknowledge the success of the key principles of non-discrimination and equal access that have been the hallmarks of its regulatory approach in the narrowband environment. This open approach affords consumers the freedom to choose the information services they purchase based upon their market appeal and other characteristics, not based on the choices made for them by “bottleneck” providers.¹¹ In fact, just

Michigan, Layering for Equity and Efficiency: A Principled Approach to Universal Service Policy (discussing the distinction between telecommunications carriage and information services that utilize such carriage).

⁹ NPRM at ¶ 102.

¹⁰ Id. at ¶¶ 37, 102.

¹¹ Significantly, it was the desire to achieve a fair and open marketplace for the provision of information (then enhanced) services that originally led the FCC to establish structural safeguards under Computer II. See In the Matter of: Amendment of Section 64.702 of the Commission's Rules and Regulations (Second Computer Inquiry), Docket No. 20828, 77 FCC 2d 384, 420, 463-464, 475 (1980) (“Computer II Final Decision”), and nonstructural safeguards under Computer III. See generally In the Matter of: Amendment of Sections 64.702 of the Commission's Rules and Regulations (Third Computer Inquiry), Report and Order, CC Docket No. 85-229, 104

this year, the FCC has reaffirmed the critical need to promote the “continued competitiveness of the already robust information services market.”¹²

As discussed above, we urge the Commission to create a framework that allows competitive, market-based forces, not the Commission, to regulate the transport services underlying advanced, broadband services. In doing so, the FCC should recognize that full and effective facilities-based loop-to-loop competition between cable and telephone infrastructures will allow a lighter regulatory hand for incumbent telephone providers. Until such time, however, the Commission’s policies and rules must promote openness in emerging advanced services, such as DSL, being deployed by incumbent LECs. Indeed, the importance of FCC action at this early juncture in the roll-out of advanced services is highlighted by reports of improper discrimination by incumbent LECs against independent ISPs and of the improper use of market power over bottleneck local network facilities.¹³ Simply put regulatory safeguards are still needed in today’s environment.¹⁴

FCC 2d 958 (1986) (“Computer III Phase I Order”); In the Matter of: Computer III Remand Proceedings: Bell Operating Company Safeguards and Tier 1 Local Exchange Company Safeguards, Report and Order, CC Docket No. 90-623, 6 FCC Rcd 7571 (1991) (“Computer III Remand Order”). Presently, in the Computer III FNPRM, the FCC is examining whether it should extend the existing structural separation to the BOCs’ provision of intraLATA information services in light of the continuing “ability and incentive [of the BOCs] to engage in anticompetitive behavior against competing ISPs.” Computer III FNPRM at ¶ 51.

¹² Computer III Further Remand Proceedings: Bell Operating Company Provision of Enhanced Services, Further Notice of Proposed Rulemaking, CC Docket Nos. 98-10, 95-20, FCC 98-8, at ¶ 1 (Jan. 30, 1998) (“Computer III FNPRM”). See also Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as amended, First Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 21905, 21910 at ¶ 6 (1997) (“Non-Accounting Safeguards Order”).

¹³ Today, most large incumbent LECs, and all of the BOCs, are competing in the ISP market. Complaints to date include allegations of discrimination against independent ISPs, preferential pricing for its affiliate, installation and service delays to unaffiliated ISPs, improper cross-marketing, preferential service treatment to affiliated ISPs, Internet “slamming,” inadequate or non-existent service standards for independent ISPs, lack of or inadequate provision of information that would allow independent ISPs to market and offer their services, and other instances of discriminatory and anticompetitive conduct. See, e.g., In the Matter of an Investigation into US WEST Communications, Inc.’s Provision of MegaBit Services, Docket No. P421/EM-98-471, Complaint of the Department of Public Service and the Office of Attorney General (September 10, 1998). See also Pacific Bell Request to Introduce a New Product, Asymmetrical Digital Subscriber Line (ADSL) Service, California PUC, Telecommunications Division, Resolution No. T-16191 (rel. Sept. 17, 1998); Failure of US WEST Communications, Inc. to File Notice of Its Promotion for Its Megabit Services, Docket No. P421/C-98-997, Comments of the Minnesota Department of Public Service at 2 (July 9, 1998); In the Matter of US WEST Communications, Inc.’s Asynchronous Digital Subscriber Line Service, Oregon PUC Docket No. UT 144, Order No. 98-362, (September 1, 1998); Docket No. 98-199-TC – In the Matter of US WEST’s Proposed Tariff Revision

The FCC's core non-structural safeguards, currently embodied in the Computer Inquiry/ONA framework, are designed to address the unique risks involved when incumbent LEC-affiliated ISPs compete with independent ISPs.¹⁵ These same risks will continue in the deployment of advanced, broadband services, whether the incumbent LEC is providing broadband services through a separate data affiliate or on an integrated basis, unless and until there is true loop competition in broadband services. Thus, to serve the public interest, the

to Its Advanced Services Tariff § 8, MegaBit Services, Prepared Direct Testimony of Dan W. Hall (Utility Economist in the Telecommunications Division of the New Mexico State Corporation Commission) at 4-7 (June 15, 1998) ("New Mexico Complaint"); Docket No. 98-049-15 – Informal Complaint of the Coalition of Utah Independent Internet Service Providers, Complaint at 2-4 (May 13, 1998) ("Utah Complaint"); Docket No. UT-98-416 -- In the Matter of the Filings of US WEST Communications, Inc. for Approval of a New Digital Subscriber Line Service Offering Denominated as "MegaBit Service," Order Setting Banded Rate Provisions of MegaBit Services Tariff with Conditions and Order Instituting Investigation (Apr. 22, 1998) ("Washington Complaint"). Similar issues have been raised in connection with the xDSL tariffs filed at the FCC. See, e.g., In the Matter of GTE Telephone Operations GTOC Tariff No. 1 GTOC Transmittal No. 1148, Order, CC Docket No. 98-79, DA 98-1020 at ¶ 3 (rel. May 29, 1998); In the Matter of SBC Communications Inc., Pacific Bell Telephone Company, Pacific Transmittal No. 1986, Order, CC Docket No. 98-103, DA 98-1293 at ¶ 3 (rel. June 29, 1998).

¹⁴ The FCC has substantial experience with incumbent carriers unlawfully using their market power to gain an unfair competitive advantage. See, e.g., AT&T Communications v. Pacific Bell, No. C 96-1691 CRB, 1998 U.S. Dist. LEXIS 13459 (N.D. Cal. Aug. 26, 1998); In the Matter of the complaint of the Michigan Cable Telecommunications Association against Ameritech Michigan, Opinion and Order, Michigan Public Service Commission, Case No. U-11507 (rel. March 24, 1998); In the Matter of the complaint of the Michigan Cable Telecommunications Association against Ameritech Michigan, Opinion and Order, Michigan Public Service Commission, Case No. U-11412 (rel. December 19, 1997); In the Matter of the Complaint of the Ohio Cable Telecommunications Association, Opinion and Order, Public Utilities Commission of Ohio, Case No. 97-654-TP-CSS (rel. July 17, 1997).

Significantly, in enacting the 1996 Act, Congress also specifically provided for certain measures to ensure that incumbents are not able to act on their ability to engage in improper and anticompetitive conduct. See 47 U.S.C. §§ 272-276. Similarly, in its Non-Accounting Safeguards Order and Accounting Safeguards Order, the FCC stressed the importance of its safeguards to help prevent anticompetitive conduct in the absence of full competition in the marketplace. Non-Accounting Safeguards Order, 11 FCC Rcd at 21911, ¶ 9; Implementation of the Telecommunications Act of 1996: Accounting Safeguards Under the Telecommunications Act of 1996, 11 FCC Rcd 17539, 17546 (1996) ("Accounting Safeguards Order").

¹⁵ In the Commission's Computer III NPRM proceeding, AOL fully set forth some minimal safeguards necessary to promote a fair and open competitive landscape. Briefly, AOL asked the FCC to require the BOCs to: offer all services they provide to their affiliated ISP to independent ISPs on equal terms and conditions; unbundle and make available to competing ISPs the network services that underlie the BOCs' own information services, as well as additional network services that the BOCs do not use in their information service offerings; offer independent ISPs the same technical standards and information, as well as the same access quality to the BOC networks; comply with reporting requirements sufficient to inform independent ISPs of new network services and network changes, as well as nondiscrimination reports regarding maintenance and service, and network interoperability requirements; and abide by an expedited complaint and enforcement process for the resolution of disputes. See generally Comments of AOL in Computer III FNPRM, CC Dockets 98-10, 95-20 (filed March 27, 1998). AOL believes these obligations will help promote open competition in the absence of head-to-head loop competition.

regulatory structure for incumbent carrier provision of advanced services must not provide the means for carriers to skirt the safeguards which the FCC concedes today “provide the only regulatory means by which certain independent ISPs are guaranteed nondiscriminatory access” to necessary BOC services.¹⁶

The Commission’s tentative conclusion -- that a BOC’s advanced data services affiliate will not be deemed “an incumbent LEC” or a “successor or assign” of a BOC unless it transfers network elements to the affiliate (and even then, this may be permitted in certain circumstances)¹⁷ -- produces the unintended effect of removing those important safeguards, since the FCC’s Computer Inquiry/ONA safeguards apply only to the BOCs (and GTE).¹⁸ Furthermore, the NPRM could be read to allow the data affiliate to provide an integrated offering of advanced, high-speed and ISP services, with no mechanism to ensure independent ISPs can do the same on a non-discriminatory basis.¹⁹

Although the NPRM intimates that other aspects of its existing regulatory scheme will provide the safeguards needed to promote competition in the information services marketplace

¹⁶ Non-Accounting Safeguards Order at ¶ 134. To do so, the Commission should ensure that the decision by an incumbent LEC to avail itself of the proposed separate affiliate for the provision of advanced services does not: provide the affiliated ISP with preferential access to information regarding service deployment and capabilities, including information regarding qualifying lines, central offices and geographic regions, as well as information regarding technical parameters and equipment; provide the affiliated ISP preferential service arrangements, terms and conditions, including access to facilities; enter into improper marketing arrangements with the affiliated ISP, including unfair cross-marketing and bundling; afford the affiliated ISP discriminatory access to CPNI, especially if the telecommunications and information services are provided as a bundled offering; and enter into unfair and anticompetitive pricing arrangements.

¹⁷ NPRM at ¶¶ 89-91, 108-111.

¹⁸ The BOCs may offer intraLATA information services either on an integrated basis or through a separate subsidiary, and interLATA information services through a separate affiliate. 47 U.S.C. § 272; NPRM at ¶ 37; Computer III FNPRM at ¶¶ 59, 97. They are required to unbundle and make available to competing ISPs on a nondiscriminatory basis those network services that underlie their own information services, and additional services which they do not use in their own service offerings. 47 U.S.C. § 272(c)(1); NPRM at ¶ 37; Computer III FNPRM at ¶ 61. In addition, BOCs wishing to provide services on an integrated basis presently must comply with a series of nonstructural safeguards, including: ONA reports, nondiscrimination reports, network information disclosure reports, non-discriminatory access to aggregate CPNI, and joint marketing restrictions. See Computer III FNPRM at ¶¶ 99-129; Non-Accounting Safeguards Order at ¶¶ 287, 296; CPNI Second Report and Order at ¶ 183.

¹⁹ We note that Congress required that most information services be provided through a separate affiliate, and that the Commission is considering whether such a requirement should be extended to all information services. Computer III FNPRM at ¶¶ 43-59.

(such as obligations under Computer II whereby facilities-based carriers that bundle enhanced/information services with basic services must unbundle and tariff the basic offerings),²⁰ it is not clear that this is the case.²¹ To serve best the public interest, the FCC should require that any advanced data service provided by the proposed separate data affiliate be offered on an unbundled, publicly available basis, including the full range of open access and non-discrimination obligations applicable today.²²

²⁰ NPRM at ¶ 102, n.200. See Computer II Final Decision, 77 FCC 2d at 475, ¶ 231. See also Independent Data Communications Manufacturers Association, Inc. Petition for Declaratory Ruling that AT&T's Interspan Frame Relay Service Is a Basic Service, Memorandum Opinion & Order, 10 FCC Rcd 13717, 13718, ¶¶ 1, 6 (1995).

²¹ Not only is the existing regulatory regime inadequate in certain respects, such as network information disclosure and nondiscrimination reporting requirements, the NPRM proposal appears to eliminate even the tariffing and unbundling obligation referenced in the Computer II decision. Specifically, the FCC has tentatively concluded that the incumbent LEC's data services affiliate, to the extent it provides interstate exchange access services, would be presumed to be nondominant, not subject to tariff filing and rate obligations. NPRM at ¶ 100. See Hyperion Telecommunications Inc./Time Warner Communications Inc., Petitions for Forbearance, Memorandum Opinion and Order and Notice of Proposed Rulemaking, 12 FCC Rcd 8596 (1997) (granting petitions seeking permissive detariffing for provision of interstate exchange access services by providers other than incumbent LECs). In fact, some carriers are already seeking to have their advanced services subject to non-dominant treatment even when they are not provided through an affiliate. See Petition of US WEST Communications, Inc. for Forbearance from Regulation as a Dominant Carrier in the Phoenix, Arizona, MSA in CC Docket 98-157 (filed Aug. 24, 1998).

²² The FCC should also address the non-discriminatory use of Customer Proprietary Network Information ("CPNI") by incumbent LECs as advanced broadband services are deployed, and should prohibit the incumbent LEC's data service affiliate and the affiliated ISP from seeking or accepting any CPNI from the incumbent LEC unless the same information is generally available on equal terms to others.

IV. CONCLUSION

The open architecture and robust service competition fundamental to the narrowband Internet marketplace have provided profound benefits for our economy and our nation. The advent of broadband transmission capabilities offers a promising opportunity to build upon that policy framework and create the local loop that is central to the 1996 Act. Such competition between cable and telephone broadband loops will permit the FCC to phase out much of the existing regulatory scheme. To realize this vision, AOL urges that the FCC expressly recognize the need for loop competition between the existing broadband infrastructures and adopt a policy of open and non-discriminatory access for both the telephone and cable "last mile" facilities.

Respectfully Submitted,

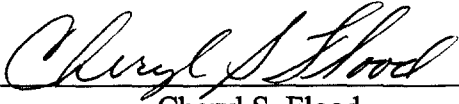


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Dated: September 28, 1998

CERTIFICATE OF SERVICE

I, Cheryl S. Flood, hereby certify that on this 28th day of September, 1998, I caused a copy of the foregoing "Comments" and "Motion for Leave to Accept Late Filed Comments" to be sent by messenger (*) to the following:


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